

CALIFORNIA AVOCADO SHIPMENTS 1956/57 SEASON

500

[fol. 486]

DEFENDANTS' EXHIBIT D

	TRACK NO.	INVOICE NO.	PILOTS
11-1656	551	21400	1600
11-16	551	21401	1550
11-17	556	21406	1575
11-21	560	21415	1600
11-21	561	21416	1600
11-23	563	21428	1600
11-23	564	21430	1600
11-24	570	21440.41	1600
11-26	573	21471	1600
11-27	575	21473-74	1600
11-27	578	21476.77	1600
11-29	579	21438	1600
12-1	589	21451	1600
12-3	592	21452	1600
12-4	595	21457	1600
12-4	596	21473	1600
12-5	598	21462	1600
12-5	599	21464-75	1600
12-6	601	21464	1600
12-6	603	21489	1600
12-7	606	21438	1600
12-8	608	21440	1600
12-8	609	21471	1600
12-13	618	21437	1350
12-13	618	21437	280
12-15	623	21516	1600
12-15	627	21488	1600
12-15	628	21487	1600
12-18	630	21499	1403
12-20	638	21506	1600
12-21	639	21452-34	1600
1-4-57	46	21533	1575
1-8	11	21542	1600
1-15	21	21559	1600
1-17	24	21562	1600
			54100
11-7	563	21415	1823
"	573	21432	1938
"	576	21436	1760
15	579	21441	1795
12-7	628	21516	1700

California Thread Shippers
1955-56 season

Truck	IN Voice	Flat	Box	Sum
11/15/55 624	V0026	-	675	675
" 16 524	V0236	-	675	675
" 17 551	20265	-	675	675
" 18 59 ✓-	20314	185	-	185
" 19 598 ✓	20334	1684	185	1684
" 20 608 ✓	2034✓	1684	185	1684
" 21 620 ✓	20360	1674	185	1674
" 22 623 ✓	20364	1662	185	1662
" 23 624 ✓	20373	1600	185	1600
" 24 635 ✓	20382	1575	185	1575
" 25 649 ✓	20416	1652	185	1652
" 26 659 ✓	20422	1660	185	1660
" 27 680 ✓	20459	1660	185	1660
" 28 682 ✓	20454	1645	185	1645
" 29 2 ✓	20470	1650	185	1650
" 30 37 ✓	20527	360	231	360
" 31 40 ✓	20536	1650	235	1650
" 32 28 ✓	202345	6	* 677	677
" 33 34 ✓	20248	..	775	775
" 34 34 ✓	20252	..	650	497
" 35 38 ✓	20262	..	675	485
" 36 38 ✓	20266	..	675	433

[fol. 487]
 DEFENDANTS' EXHIBIT R

31301300441/31886
 -361-C-31
 Less 210 t² 1/2
 1/2

	18	:	12.3	19.8	:	<u>3.2</u>	3.7	:	8.7	8.2	:	6.2	5.6	:	4.5	4.4
	25	:	13.8	19.2	:	3.3	3.7	:	8.2	8.3	:	5.9	5.6	:	4.2	4.4
	Aug. 1	:	13.3	17.8	:	3.3	3.6	:	10.1	9.2	:	5.9	5.0	:	4.5	4.2
Maron	July 25	:	9.0	13.8	:	2.9	3.5	:	9.4	9.4	:	5.5	5.3	:	3.5	3.3
	Aug. 1	:	8.5	13.6	:	2.9	3.4	:	8.9	9.5	:	5.3	5.0	:	3.4	3.7
	8	:	10.0	12.8	:	3.0	3.3	:	8.9	8.9	:	4.5	5.3	:	3.2	3.0
	15	:	9.5	12.4	:	3.0	3.3	:	8.3	8.5	:	5.5	5.3	:	3.4	3.4
Pinelli	Aug. 1	:	13.9	18.8	:	3.4	3.7	:	8.9	8.9	:	5.8	5.8	:	3.9	3.4
	8	:	15.3	19.5	:	3.5	3.8	:	8.2	8.9	:	6.5	6.7	:	3.7	3.7
	15	:	15.0	20.2	:	3.5	3.9	:	8.3	8.7	:	7.6	7.3	:	3.8	4.0
Trapp	Aug. 1	:	12.3	14.1	:	3.4	3.6	:	8.9	8.9	:	5.5	4.0	:	3.8	3.6
	8	:	12.7	14.3	:	3.4	3.5	:	8.3	8.3	:	5.2	5.0	:	3.9	3.9
	15	:	12.3	14.3	:	3.4	3.6	:	9.4	9.0	:	5.5	4.0	:	4.0	4.0
Waldin	Aug. 1	:	14.2	16.4	:	3.3	3.4	:	9.3	9.4	:	4.7	4.5	:	3.5	3.3
	8	:	14.2	17.1	:	3.4	3.5	:	9.0	8.9	:	5.8	5.3	:	3.5	3.4
	15	:	13.4	17.1	:	3.3	3.5	:	9.2	9.2	:	5.7	5.8	:	3.7	3.7
	22	:	13.6	16.8	:	3.4	3.5	:	9.1	9.9	:	4.5	4.7	:	3.9	4.0
	29	:	14.3	17.3	:	3.4	3.6	:	9.7	9.7	:	5.7	4.5	:	4.2	3.3
	Sept. 6	:	13.0	17.9	:	3.3	3.6	:	9.7	9.8	:	4.5	4.5	:	3.3	3.8

1/ Each figure represents an average of 15 avocados tested at Homestead, Florida.

2/ Each figure represents an average of 15 avocados tested at Orlando, Florida.

3/ Number of days at 80°F. does not include rail transit time of 2 or 3 days from Homestead, Florida to Orlando, Florida.

Some Physical and Chemical Changes in the Principal Varieties of Florida Avocados Picked Below and Above the Regulated Min^b
by T. T. Hatton, Jr., John Popenoe, Mortimer J. Soule, Jr., and Paul L. Harding

HARD FRUIT

Variety	Average Weight of Fruit		Average Diameter of Fruit		Total Soluble Solids		Phenolic Compounds		Reducing Sugars		Oil	
	Date Picked:	: Below Cunces	: Above Cunces	: Below Inches	: Above Inches	: Below Percent	: Above Percent	: Below Percent	: Above Percent	: Below Percent	: Above Percent	
Adams	: June 27	: 10.2	14.3	: 2.8	3.2	: 6.9	6.9	: 5.7	5.7	: 3.5	3.3	: 3.6 2.7
	: July 5	: 10.6	15.2	: 2.8	3.1	: 7.3	7.3	: 4.8	5.2	: 3.4	3.5	: 3.1 3.6
	: 11	: 11.3	15.4	: 2.9	3.3	: 7.1	6.9	: 5.2	5.0	: 3.5	3.2	: 3.4 3.1
	: 18	: 11.7	16.8	: 2.9	3.3	: 7.4	6.9	: 5.2	5.5	: 3.3	3.1	: 5.7 5.1
Bollock	: June 27	: 13.6	16.7	: 3.1	3.2	: 7.4	7.4	: 3.3	1.5	: 4.4	4.8	: 2.4 1.8
	: July 5	: 12.0	17.6	: 3.0	3.3	: 7.9	7.9	: 3.0	3.0	: 5.0	5.3	: 1.9 3.1
	: 11	: 11.8	22.4	: 3.0	3.6	: 7.4	7.4	: 3.8	2.3	: 4.8	4.4	: 2.5 2.6
	: 18	: 11.6	22.7	: 3.0	3.7	: 7.8	7.8	: 2.5	2.8	: 4.6	4.6	: 3.1 3.1
Amada	: June 27	: 14.0	17.3	: 3.1	3.3	: 8.0	8.9	: 5.9	5.5	: 4.5	4.8	: 1.9 2.7
	: July 5	: 11.5	16.6	: 3.0	3.3	: 8.4	7.8	: 5.9	5.6	: 4.8	3.9	: 2.2 2.5
	: 11	: 12.9	18.1	: 3.1	3.5	: 7.5	8.1	: 5.9	5.5	: 4.2	4.4	: 3.0 3.0
	: 18	: 12.3	19.8	: 3.2	3.7	: 8.7	8.2	: 6.2	5.6	: 4.5	4.4	: 3.0 3.0
	: 25	: 13.8	19.2	: 3.3	3.7	: 8.2	8.3	: 5.9	5.6	: 4.2	4.4	: 3.7 4.2
	: Aug. 1	: 13.3	17.8	: 3.3	3.6	: 10.1	9.2	: 5.9	5.0	: 4.5	4.2	: 3.7 3.2
Petardi	: July 25	: 9.0	13.8	: 2.9	3.5	: 9.4	9.4	: 5.5	5.3	: 3.5	3.3	: 4.2 4.6
	: Aug. 1	: 8.5	13.6	: 2.9	3.4	: 8.9	9.5	: 5.3	5.0	: 3.4	3.7	: 4.5 5.1
	: 8	: 10.0	12.8	: 3.0	3.3	: 8.9	8.9	: 4.5	5.3	: 3.2	3.0	: 4.0 4.0
	: 15	: 9.5	12.4	: 3.0	3.3	: 8.3	8.5	: 5.5	5.3	: 3.4	3.4	: 4.0 4.5
Pinelli	: Aug. 1	: 13.9	18.8	: 3.4	3.7	: 8.9	8.9	: 5.8	5.8	: 3.9	3.4	: 4.2 4.7

varieties of Florida Avocados Picked Below and Above the Regulated Minimum Weight, 1955-56.

[fol. 435]

John Popencik, Mortimer J. Soule, Jr., and Paul L. Harding

SOFT FRUIT 2/													
Solids	Phenolic Compounds	Reducing Sugars	Oil		Average Weight on Arrival		Softening Period at 80° F.		Flavor				
Above	Below	Above	Below	Above	Below	Above	Below	Above	Below	Above	Below		
it	Percent	Percent	Percent	Percent	Percent	Percent	Ounces	Days	Below	Above	Below	Numerical Rating	Above
6.9	: 5.7	5.7	: 3.5	3.3	: 3.6	2.7	: 11.6	15.2	: 4	3	: 65	68	
7.3	: 4.8	5.2	: 3.4	3.5	: 3.1	3.6	: 11.2	16.5	: 4	4	: 73	78	
6.9	: 5.2	5.0	: 3.5	3.2	: 3.4	3.1	: 12.3	16.6	: 2	2	: 75	80	
6.9	: 5.2	5.5	: 3.3	3.1	: 5.7	5.1	: 11.5	17.4	: 2	2	: 80	85	
7.4	: 3.3	1.5	: 4.4	4.8	: 2.4	1.8	: 12.7	17.5	: 6	6	: 65	69	
7.9	: 3.0	3.0	: 5.0	5.3	: 1.9	3.1	: 13.7	20.1	: 5	5	: 73	75	
7.4	: 3.8	2.3	: 4.8	4.4	: 2.5	2.6	: 13.7	21.6	: 4	4	: 75	77	
7.8	: 2.5	2.8	: 4.6	4.6	: 3.1	3.1	: 13.6	17.8	: 3	3	: 80	85	
8.9	: 5.9	5.5	: 4.5	4.8	: 1.9	2.7	: 13.7	17.4	: 7	7	: 65	69	
7.8	: 5.9	5.6	: 4.8	3.9	: 2.2	2.5	: 13.7	19.4	: 5	5	: 73	77	
8.1	: 5.9	5.5	: 4.2	4.4	: 3.0	3.0	: 13.6	17.8	: 3	3	: 75	78	
8.2	: 6.2	5.6	: 4.5	4.4	: 3.0	3.0	: 13.9	19.0	: 3	3	: 78	83	
8.3	: 5.9	5.6	: 4.2	4.4	: 3.7	4.2	: 14.0	18.6	: 4	4	: 75	80	
9.2	: 5.9	5.0	: 4.5	4.2	: 3.7	3.2	: 13.0	19.9	: 3	2	: 78	87	
9.4	: 5.5	5.3	: 3.5	3.3	: 4.2	4.6	: 9.3	13.5	: 4	4	: 60	65	
9.5	: 5.3	5.0	: 3.4	3.7	: 4.5	5.1	: 8.4	14.6	: 4	4	: 75	82	
8.9	: 4.5	5.3	: 3.2	3.0	: 4.0	4.0	: 10.1	14.0	: 5	4	: 80	85	
8.5	: 5.5	5.3	: 3.4	3.4	: 4.0	4.5	: 10.6	13.5	: 6	5	: 73	85	
8.9	: 5.8	5.8	: 3.9	3.4	: 4.2	4.7	: 14.7	19.1	: 5	5	: 60	65	

HARD FRUIT I

Variety	Date Picked:	Average Weight of Fruit		Average Diameter of Fruit		Total Soluble Solids		Phenolic Compounds		Reducing Sugars		Oil	
		Below	Above	Below	Above	Below	Above	Below	Above	Below	Above	Below	Above
		Ounces	Inches	Percent	Percent	Percent	Percent	Percent	Percent	Percent	Percent	Percent	Percent
Booth 8	Aug. 29	11.6	14.5	3.1	3.5	8.3	8.3	8.5	7.7	3.2	3.4	4.2	4.2
	Sept. 6	11.2	16.7	3.0	3.5	8.0	8.4	5.0	4.5	2.7	1.5	5.4	5.4
	12	11.1	15.4	3.1	3.4	7.9	8.2	6.3	5.8	2.8	3.2	4.6	4.6
	19	10.3	16.9	3.0	3.5	7.7	8.4	7.3	6.5	3.0	2.9	4.9	4.9
	26	11.7	15.2	3.1	3.4	8.2	8.4	8.7	8.7	2.8	2.9	4.7	5.3
	Oct. 3	10.3	16.1	3.0	3.5	8.1	8.6	8.5	7.0	2.8	3.1	5.2	5.2
Booth 7	Sept. 19	11.0	17.7	3.2	3.7	8.9	9.7	8.3	7.3	3.3	2.7	3.5	4.2
	26	12.9	16.8	3.3	3.7	9.0	9.5	7.8	7.8	3.1	2.7	3.8	4.6
	Oct. 3	13.0	17.3	3.4	3.7	9.6	10.9	7.7	7.0	2.5	2.7	5.2	4.0
	10	11.6	16.9	3.2	3.6	10.2	11.2	7.3	7.3	2.3	2.4	4.4	4.6
	17	13.3	17.8	3.4	3.8	---	---	7.3	7.3	2.4	2.9	4.2	4.7
	24	13.6	17.9	3.4	3.8	11.5	12.1	8.3	7.3	2.5	2.8	5.2	6.9
Lula 4/	Sept. 26	14.3	16.4	3.3	3.4	9.5	9.9	6.3	6.9	4.1	4.4	4.3	5.3
	Oct. 3	14.0	16.8	3.3	3.5	9.7	9.9	7.7	7.0	4.1	4.4	5.7	6.9
	10	14.2	16.6	3.3	3.5	9.9	9.9	7.0	7.0	4.5	4.5	6.5	5.1
	17	13.2	18.0	3.2	3.7	10.9	10.9	7.8	7.3	5.0	4.8	4.8	5.6
	24	14.1	17.2	3.3	3.5	9.9	10.2	7.0	7.0	4.8	4.5	5.1	6.0
	31	12.7	17.9	3.2	3.6	8.2	8.7	7.7	8.5	5.0	4.4	5.2	6.4
Hickson	Sept. 26	11.3	16.1	2.9	3.3	8.8	8.8	9.9	9.1	---	3.6	5.8	5.3
	Oct. 3	10.7	16.9	3.0	3.4	8.5	8.5	8.3	8.5	3.1	3.0	6.2	6.6
	10	10.5	14.5	2.9	3.2	9.0	8.9	8.7	9.9	3.2	3.9	7.2	5.6

:	10	:	11.6	16.9	:	3.2	3.6	:	10.2	11.2	:	7.3	7.3	:	2.3	<4
:	17	:	13.3	17.8	:	3.4	3.8	:	---	---	:	7.3	7.3	:	2.4	2.9
:	24	:	13.6	17.9	:	3.4	3.8	:	11.5	12.1	:	8.3	7.3	:	2.5	2.8
Lula 4/	Sept. 26	:	14.3	16.4	:	3.3	3.4	:	9.5	9.9	:	6.3	6.5	:	4.1	4.4
	Oct. 3	:	14.0	16.8	:	3.3	3.5	:	9.7	9.9	:	7.7	7.0	:	4.1	4.4
	10	:	14.2	16.6	:	3.3	3.5	:	9.9	9.9	:	7.0	7.0	:	4.5	4.5
	17	:	13.2	18.0	:	3.2	3.7	:	10.9	10.9	:	7.8	7.3	:	5.0	4.8
	24	:	14.1	17.2	:	3.3	3.5	:	9.9	10.2	:	7.0	7.0	:	4.8	4.5
	31	:	12.7	17.9	:	3.2	3.6	:	8.2	8.7	:	7.7	8.5	:	5.0	4.4
Hickson	Sept. 26	:	11.3	16.1	:	2.9	3.3	:	8.8	8.8	:	9.9	9.1	:	---	3.6
	Oct. 3	:	10.7	16.9	:	3.0	3.4	:	8.5	8.5	:	8.3	8.5	:	3.1	3.0
	10	:	10.5	14.5	:	2.9	3.2	:	9.0	8.9	:	8.7	9.9	:	3.2	3.9
	17	:	8.6	15.5	:	2.7	3.3	:	9.0	8.9	:	9.3	9.1	:	2.6	2.9
	24	:	11.2	17.5	:	2.9	3.4	:	8.8	8.8	:	10.7	9.6	:	3.2	3.0
	31	:	11.9	15.3	:	3.0	3.3	:	7.8	7.8	:	9.1	7.8	:	3.3	3.6
Monroe	Oct. 10	:	21.6	28.1	:	3.8	4.2	:	9.2	9.2	:	---	---	:	---	---
	17	:	21.0	26.0	:	3.9	4.0	:	9.4	9.4	:	---	---	:	---	---
	24	:	19.9	27.3	:	3.8	4.2	:	9.6	9.5	:	---	---	:	---	---
	31	:	20.4	25.3	:	3.8	4.0	:	8.0	7.9	:	---	---	:	---	---
	Nov. 7	:	20.4	25.6	:	3.8	4.0	:	8.2	8.9	:	---	---	:	---	---
	14	:	20.3	27.5	:	3.8	4.2	:	8.9	8.8	:	---	---	:	---	---

1/ Each figure represents an average of 15 avocados tested at Homestead, Florida.

2/ Each figure represents an average of 15 avocados tested at Orlando, Florida.

3/ Number of days at 80° F. does not include rail transit time of 2 or 3 days from Homestead, Florida to Orlando, Florida.

4/ Special early weight and date were not used.

HARD FRUIT 1												SOFT FRUIT 2							
Fruit	Total Soluble Solids	Phenolic Compounds	Reducing Sugars	Oil	Average Weight on Arrival	Softening Period at 50°F.	Flavor	Below	Above	Below	Above	Below	Above	Below	Above	Below	Above	Below	Above
	Percent	Percent	Percent	Percent	Ounces	Days	Numerical Rating												
:	8.3	8.3	8.5	7.7	3.2	3.4	4.2	4.2	11.7	15.6	8	8	6	60	66				
:	8.0	8.4	5.0	4.5	2.7	1.5	5.4	5.4	11.3	16.4	7	7	7	71	78				
:	7.9	8.2	6.3	5.8	2.8	3.2	4.6	4.6	10.8	16.7	7	8	8	74	79				
:	7.7	8.4	7.3	6.5	3.0	2.9	4.9	4.9	10.9	15.8	8	8	8	76	80				
:	8.2	8.4	8.7	8.7	2.8	2.9	4.7	5.3	10.9	15.5	8	8	8	75	76				
:	8.1	8.6	8.5	7.0	2.8	3.1	5.2	5.2	11.3	15.9	7	7	7	78	77				
:	8.9	9.7	8.3	7.3	3.3	2.7	3.5	4.2	13.0	19.3	7	8	8	77	76				
:	9.0	9.5	7.8	7.8	3.1	2.7	3.8	4.6	11.9	17.7	7	6	7	78	79				
:	9.6	10.9	7.7	7.0	2.5	2.7	5.2	4.0	11.6	19.0	7	7	7	76	79				
:	10.2	11.2	7.3	7.3	2.3	2.4	4.4	4.6	12.1	19.7	6	7	7	78	79				
:	—	—	7.3	7.3	2.4	2.9	4.2	4.7	13.4	18.7	7	7	7	81	84				
:	11.5	12.1	8.3	7.3	2.5	2.8	5.2	6.9	12.0	18.8	8	8	8	77	81				
:	9.5	9.9	6.3	6.5	4.1	4.4	4.3	5.3	14.3	17.3	8	8	8	76	74				
:	9.7	9.9	7.7	7.0	4.1	4.4	5.7	6.9	12.6	17.8	7	6	7	73	75				
:	9.9	9.9	7.0	7.0	4.5	4.5	6.5	5.1	12.5	17.7	8	8	8	75	77				
:	10.9	10.9	7.8	7.3	5.0	4.8	4.8	5.6	11.9	17.8	8	8	8	72	75				
:	9.9	10.2	7.0	7.0	4.8	4.5	5.1	6.0	13.4	17.4	8	8	8	76	76				
:	8.2	8.7	7.7	8.5	5.0	4.4	5.2	6.4	13.8	17.3	8	8	8	74	76				
:	8.8	8.8	9.9	9.1	—	3.6	5.8	5.3	12.1	18.2	9	7	7	75	77				
:	8.5	8.5	8.3	8.5	3.1	3.0	6.2	6.6	10.7	16.1	6	6	6	71	72				
:	9.0	8.9	8.7	9.9	3.2	3.9	7.2	5.6	9.7	16.1	7	6	6	72	73				
:	—	—	9.1	9.1	2.6	2.9	5.4	6.1	9.9	17.6	6	6	6	72	75				

7.3	7.3	:	2.4	2.9	:	4.2	4.7	:	13.4	18.7	:	7	7	:	81	84
8.3	7.3	:	2.5	2.8	:	5.2	6.9	:	12.0	18.8	:	8	8	:	77	81
6.3	6.5	:	4.1	4.4	:	4.3	5.3	:	14.3	17.3	:	8	8	:	76	74
7.7	7.0	:	4.1	4.4	:	5.7	6.9	:	12.6	17.8	:	7	6	:	73	75
7.0	7.0	:	4.5	4.5	:	6.5	5.1	:	12.5	17.7	:	8	8	:	75	77
7.8	7.3	:	5.0	4.8	:	4.8	5.6	:	11.9	17.8	:	8	8	:	72	75
7.0	7.0	:	4.8	4.5	:	5.1	6.0	:	13.4	17.4	:	8	8	:	76	76
7.7	8.5	:	5.0	4.4	:	5.2	6.4	:	13.8	17.3	:	8	8	:	74	76
9.9	9.1	:	---	3.6	:	5.8	5.3	:	12.1	18.2	:	9	7	:	75	77
8.3	8.5	:	3.1	3.0	:	6.2	6.6	:	10.7	16.1	:	6	6	:	71	72
8.7	9.9	:	3.2	3.9	:	7.2	5.6	:	9.7	16.1	:	7	6	:	72	73
9.3	9.1	:	2.6	2.9	:	5.4	6.1	:	9.9	17.6	:	6	6	:	72	75
10.7	9.6	:	3.2	3.0	:	6.0	6.1	:	10.5	16.8	:	6	6	:	68	69
9.1	7.8	:	3.3	3.6	:	7.4	7.4	:	11.5	16.5	:	6	6	:	69	69
---	---	:	---	---	:	4.0	4.6	:	18.3	27.5	:	6	7	:	73	75
---	---	:	---	---	:	3.0	3.8	:	18.9	32.0	:	7	7	:	71	73
---	---	:	---	---	:	3.8	4.2	:	18.8	31.5	:	8	7	:	71	72
---	---	:	---	---	:	4.6	4.7	:	20.0	27.5	:	7	7	:	72	72
---	---	:	---	---	:	4.3	4.8	:	20.9	28.3	:	7	7	:	76	79
---	---	:	---	---	:	5.0	4.8	:	20.6	30.9	:	6	5	:	79	82

orida to Orlando, Florida.

HARD FRUIT¹

Variety	Date Picked	Average Weight of Fruit		Average Diameter of Fruit		Total Soluble Solids		Phenolic Compounds		Reducing Sugars		Oil	
		Below	Above	Below	Above	Below	Above	Below	Above	Below	Above	Below	Above
		Ounces		Inches		Percent		Percent		Percent		Percent	
Homestead	Oct. 31	12.3	---	3.4	---	6.5	---	3.1	---	6.0	9.2	---	---
	Nov. 7	11.7	17.9	3.3	3.9	8.8	8.2	8.3	7.7	4.1	3.2	6.0	9.2
	14	13.1	17.4	3.5	3.8	8.1	8.4	7.3	7.0	3.5	3.3	6.6	8.2
	21	12.1	17.4	3.3	3.8	8.1	7.9	8.3	7.0	4.1	3.4	6.7	7.1
	29	11.7	19.4	3.4	4.0	8.4	8.7	8.3	7.0	3.8	2.8	6.9	10.0
	Dec. 6	12.3	18.6	3.5	4.0	7.8	7.8	7.7	8.3	3.4	2.8	9.2	10.3
Orlando	Nov. 1	10.0	11.8	2.9	3.1	8.4	8.3	10.3	9.9	4.8	5.0	6.0	6.0
	8	10.4	12.1	2.9	3.0	8.1	7.9	11.6	13.1	4.8	4.8	5.4	5.4
	15	9.8	12.1	2.9	3.0	8.3	8.3	16.0	13.3	4.8	5.1	6.0	6.2
	22	10.2	12.4	2.9	3.1	8.4	8.4	9.3	17.0	5.3	5.1	6.4	7.3
	28	9.9	12.2	2.9	3.2	9.0	8.8	13.1	14.6	5.3	4.5	7.4	7.8
	Dec. 5	9.7	12.1	3.0	3.1	8.0	7.9	15.0	13.6	4.8	4.5	7.5	7.6

¹ Each figure represents an average of 15 avocados tested at Homestead, Florida.

² Each figure represents an average of 15 avocados tested at Orlando, Florida.

³ Number of days at 80° F. does not include rail transit time of 2 or 3 days from Homestead, Florida to Orlando, Florida.

1/

SOFT FRUIT 2/

ruit	Total Soluble Solids				Phenolic Compounds				Reducing Sugars				Oil		Average Weight on Arrival				Softening Period at 80° F. 3/				Flavor	
	Below	Above	Percent	Below	Above	Percent	Below	Above	Percent	Below	Above	Percent	Below	Above	Below	Above	Days	Below	Above	Below	Above	Numerical Rating		
:	---	--	: 6.5	---	--	: 3.1	---	--	--	--	--	12.9	---	--	8	--	64	--						
:	8.8	8.2	: 8.3	7.7	8.1	: 4.1	3.2	6.0	9.2	12.6	19.3				9	8	72	74						
:	8.1	8.4	: 7.3	7.0	8.5	: 3.5	3.3	6.6	8.2	12.7	20.0				8	8	72	72						
:	8.1	7.9	: 8.3	7.0	8.1	: 4.1	3.4	6.7	7.1	11.9	21.9				9	8	76	82						
:	8.4	8.7	: 8.3	7.0	8.8	: 3.8	2.8	6.9	10.0	13.3	20.6				10	9	75	80						
:	7.8	7.8	: 7.7	8.3	8.4	: 3.4	2.8	9.2	10.3	12.5	19.9				7	7	72	74						
:	8.4	8.3	: 10.3	9.9	8.5	: 4.8	5.0	6.0	6.0	10.7	12.6				8	8	69	71						
:	8.1	7.9	: 11.6	13.1	8.2	: 4.8	4.8	5.4	5.4	10.7	13.0				8	8	78	79						
:	8.3	8.3	: 16.0	13.3	8.5	: 4.8	5.1	6.0	6.2	10.8	13.0				7	7	76	76						
:	8.4	8.4	: 9.3	17.0	8.5	: 5.3	5.1	6.4	7.3	10.8	13.3				8	7	81	84						
:	9.0	8.8	: 13.1	14.6	8.5	: 5.3	4.5	7.4	7.8	9.5	13.4				10	9	82	86						
:	8.0	7.9	: 15.0	13.6	8.5	: 4.8	4.5	7.5	7.6	11.1	13.0				8	8	81	82						

tead, Florida.

do, Florida.

or 3 days from Homestead, Florida to Orlando, Florida.

[fol. 488]

DEFENDANTS' EXHIBIT S

•FLORIDA LIME AND AVOCADO GROWERS, INC.
AVOCADOS SHIPPED TO CALIFORNIA

1954-55 season	No. of Lugs*
10-18	2200
10-19	2100
10-19	2200
10-20	2200
10-21	2200
10-23	2200
10-26	2200
10-26	2200
10-26	1800
10-27	1900
10-28	2200
10-29	2200
11-2	2200
11-3	2200
11-5	2200
11-5	2000
11-5	2000
11-9	2200
11-10	2200
11-11	2208
11-11	2200
11-12	2100
11-12	2200
11-12	1000
11-16	1600
11-16	1200
11-16	2200
11-17	2200
11-18	1300
11-19	2200

63,208 lugs

* Lug used in 1954-55 season contained 11 pounds of fruit; 5 lugs per bushel.

In 1955-56 and subsequent seasons, lug used contained 13½ to 15 pounds of fruit; approximately 3½ lugs per bushel.

[fol. 489]

1955-56

Date	No. of Lugs
11-5	1913
11-8	1950
11-8	1914
11-9	1914
11-9	2000
11-10	1929
11-10	1915
11-11	1915
11-11	1900
11-12	2083
11-12	2045
11-12	1900
11-14	2208
11-15	2096
11-16	2000
12-1	1900
12-3	2000
56-14	2000
	35,480

[fol. 490]

1956-57

Date	No. of Lugs
56-12-28	1805
12-14	1850
12-6	2004
12-12	2000
57-1-9	1909
1-16	400
1-16	1425
1-25	2026
	13,419 Lugs

8.9	:	5.9	5.5	:	4.5	4.8	:	1.9	2.7	:	13.7	17.4	:	7	7	:	65	69
7.8	:	5.9	5.6	:	4.8	3.9	:	2.2	2.5	:	13.7	19.4	:	5	5	:	73	77
8.1	:	5.9	5.5	:	4.2	4.4	:	3.0	3.0	:	13.6	17.8	:	3	3	:	75	78
8.2	:	6.2	5.6	:	4.5	4.4	:	3.0	3.0	:	13.9	19.0	:	3	3	:	78	83
8.3	:	5.9	5.6	:	4.2	4.4	:	3.7	4.2	:	14.0	18.6	:	4	4	:	75	80
9.2	:	5.9	5.0	:	4.5	4.2	:	3.7	3.2	:	13.0	19.9	:	3	2	:	78	87
9.4	:	5.5	5.3	:	3.5	3.3	:	4.2	4.6	:	9.3	13.5	:	4	4	:	60	65
9.5	:	5.3	5.0	:	3.4	3.7	:	4.5	5.1	:	8.4	14.6	:	4	4	:	75	82
8.9	:	4.5	5.3	:	3.2	3.0	:	4.0	4.0	:	10.1	14.0	:	5	4	:	80	85
8.5	:	5.5	5.3	:	3.4	3.4	:	4.0	4.5	:	10.6	13.5	:	6	5	:	73	85
8.9	:	5.8	5.8	:	3.9	3.4	:	4.2	4.7	:	14.7	19.1	:	5	5	:	60	65
8.9	:	6.5	6.7	:	3.7	3.7	:	3.5	3.6	:	15.1	19.7	:	5	5	:	72	78
8.7	:	7.6	7.3	:	3.8	4.0	:	3.8	4.1	:	15.1	21.2	:	7	7	:	72	80
8.9	:	5.5	4.0	:	3.8	3.6	:	2.9	2.9	:	12.2	14.3	:	3	3	:	72	78
8.3	:	5.2	5.0	:	3.9	3.9	:	3.0	3.0	:	12.7	14.8	:	7	6	:	72	78
9.0	:	5.5	4.0	:	4.0	4.0	:	2.3	2.0	:	12.1	14.9	:	6	7	:	80	80
9.4	:	4.7	4.5	:	3.5	3.3	:	4.9	5.3	:	14.6	17.3	:	5	5	:	65	73
8.9	:	5.8	5.3	:	3.5	3.4	:	4.9	4.6	:	13.4	17.4	:	6	6	:	70	78
9.2	:	5.7	5.8	:	3.7	3.7	:	3.3	3.6	:	13.8	18.0	:	6	6	:	75	85
9.9	:	4.5	4.7	:	3.9	4.0	:	3.3	3.3	:	14.2	17.4	:	7	7	:	70	72
9.7	:	5.7	4.5	:	4.2	3.3	:	4.2	4.2	:	13.9	18.7	:	7	6	:	78	85
9.8	:	4.5	4.5	:	3.3	3.8	:	3.9	3.9	:	13.8	18.4	:	5	5	:	81	86

1957-58

Date	No. of Lugs
11-14	900
11-14	974
11-18	678
12-9	2043
12-12	2035
12-13	1795
12-17	760
12-20	786
	9,971 Lugs

[fol. 491]

SUPREME COURT OF THE UNITED STATES
No. 49, October Term, 1959

FLORIDA LIME AND AVOCADO GROWERS, INC., et al., Appellants
vs.

**JACOBSEN, Director of the Department of Agriculture
of the State of California, et al.**

JUDGMENT OF THE SUPREME COURT OF THE UNITED STATES
—Filed April 25, 1960

**Appeal From the United States District Court for the
Northern District of California.**

This Cause came on to be heard on the transcript of the record from the United States District Court for the Northern District of California, and was argued by counsel.

On Consideration Whereof, It is ordered and adjudged by this Court that the judgment of the said United States District Court in this cause be, and the same is hereby, reversed with costs; and that this cause be, and the same is hereby, remanded to the United States District Court for the Northern District of California for further proceedings not inconsistent with the opinion of this Court.

It is further ordered that the said appellants, Florida Lime and Avocado Growers, Inc., et al. recover from Jacobson, Director of the Department of Agriculture of the State of California, et al. Two Thousand Three Hundred Fifty Dollars and Seventy Cents (\$2350.70) for their costs herein expended.

March 7, 1960

Clerk's costs	\$ 519.60
Printing record	1831.10
Total	\$2350.70

Mr. Justice Douglas joins in the part of the opinion that passes on the merits, the Court having held, contrary to his view, that the case is properly here on direct appeal from a three-judge court.

Dissenting opinion by Mr. Justice Frankfurter with whom Mr. Justice Douglas joins.

A true copy James R. Browning, Test: Clerk of the Supreme Court of the United States, Certified this twentieth day of April, 1960, By R. J. Blanchard, Deputy.

[fol. 492] [File endorsement omitted]

IN UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

NORTHERN DIVISION

No. 7648 Civil Action

[Title omitted]

NOTICE OF MOTIONS BY PLAINTIFFS: (1) TO AMEND AND SUPPLEMENT COMPLAINT; (2) TO RECONSIDER AND GRANT MOTION MADE FEBRUARY 2, 1959; (3) TO SET CASE FOR TRIAL—Filed April 29, 1960

To Stanley Mosk and John Fourt, attorneys for defendants, and to William E. Warne, Director of the Department of Agriculture of California:

Please take notice that on Monday, May 9, 1960, at 2 o'clock P.M., or at such other time as the court may direct, the plaintiffs in the above-entitled action will move the court: (1) for leave to amend and supplement their complaint by substituting William E. Warne, present Director of the Department of Agriculture of California, as party defendant in place of his predecessor in said office, W. C. Jacobsen; (2) to reconsider and grant the motion to amend their complaint filed herein by plaintiffs on February 2, 1959; (3) to pass upon the motion filed herein by plaintiffs February 28, 1958 to set the case for trial at the early convenience of the court.

Isaac E. Ferguson, Attorney for plaintiffs.

April 28, 1960

[fol. 493] IN UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

NORTHERN DIVISION

No. 7648 Civil Action

[Title omitted]

MOTION OF PLAINTIFFS TO AMEND AND SUPPLEMENT COMPLAINT BY SUBSTITUTING WILLIAM E. WARNE, DIRECTOR OF THE DEPARTMENT OF AGRICULTURE OF THE STATE OF CALIFORNIA, AS DEFENDANT IN PLACE OF W. C. JACOBSEN
—Filed April 29, 1960

The plaintiffs, Florida Lime and Avocado Growers, Inc. and South Florida Growers Association, Inc., by their undersigned attorney, move the court to grant leave to amend and supplement the complaint by substituting William E. Warne, present Director of the Department of Agriculture of California, as party defendant in place of W. C. Jacobsen, his predecessor in said office, without prejudice to the prior proceedings in this action.

In support of this motion, plaintiffs state as follows:

1. This motion is made pursuant to Rules 15 and 25(d) of the Rules of Civil Procedure for the United States District Courts.

2. Said W. C. Jacobsen was named as a party defendant in plaintiff's complaint as Director of the Department of Agriculture of the State of California and it is alleged in the complaint that as such executive officer of the state he [fol. 494] was granted the authority to conduct the state government's Department of Agriculture and to enforce the provisions of the Agricultural Code of California, in particular section 792 thereof, alleged by plaintiffs to contravene the provisions of the Constitution of the United States referred to in paragraph III of the complaint, also further alleged to be in conflict with an act of Congress regulating interstate commerce (paragraph IV of complaint).

3. On January 4, 1960 said W. C. Jacobsen ceased to hold office as Director of the Department of Agriculture and William E. Warne, having been duly appointed to said office, assumed office as such director and still continues to hold this office.

4. There is substantial need for continuing this action against William E. Warne, as present Director of the Department of Agriculture of California, because he is now the officer of the state directly and primarily charged with authority to continue to enforce the provisions of the Agricultural Code of California, in particular the provisions whereby plaintiffs are precluded from marketing in this state Florida-grown avocados with less than 8% oil content, of which provisions plaintiffs complain as aforesaid. Section 792 of said Code, containing the 8% oil content requirement, has been enforced at all times since its enactment by the predecessors of the present director of California's Department of Agriculture and is now being enforced by the present director, and plaintiffs allege that said statute will continue to be enforced against them by the present director as long as it remains in force unless deterred by judicial declaration or writ of injunction as prayed for in plaintiff's complaint.

5. The Supreme Court of the United States has adjudged that plaintiff's complaint sets forth a cause of action triable by this court under sections 1331 and 1337 of the Judicial Code.

[fol. 495] Wherefore plaintiffs pray that the court may enter an order granting leave to amend their complaint by substituting William E. Warne, present Director of the Department of Agriculture of the State of California, as party defendant in place of W. C. Jacobsen, his predecessor in said office, all proceedings in the case to stand as if said William E. Warne had originally been named as defendant and all pleadings and motions heretofore made herein by the defendant W. C. Jacobsen, former Director of the Department of Agriculture of the State of California, to be regarded as if made by William E. Warne, present Director of the Department of Agriculture of the State of California.

Florida Lime and Avocado Growers, Inc., and South Florida Growers Association, Inc., plaintiffs, by Isaac E. Ferguson, Attorneys for plaintiffs.

[fol. 496]

POINTS AND AUTHORITIES IN SUPPORT OF MOTION

I.

When litigation involves an assertion of right, or exercise of a continuing duty or power by a party in his representative capacity as a public officer, and the term of office of such party comes to an end, substitution of his successor in office is matter of course.

Estate of Lermond, 142 Cal. 585.

Weadon v. Shahan, 50 C.A. 2d 254, 259-260.

In the federal practice, provision for such substitution of parties is made by Rule 25(d) of Rules of Civil Procedure for the United States District Courts.

Allen v. Regents of University System of Georgia, 304 U.S. 439, 444-445, 58 S. Ct. 980, 982-983.

Watson v. Buck, 313 U.S. 387, 61 S. Ct. 962:—Action to restrain enforcement of Florida statutes relating to copyrighted musical compositions; three Attorneys General of Florida successively named as defendants (61 S.Ct. at page 965, footnote).

Dannenber v. Cohen. 7 C.A., 213 F. 2d 944.—General rule stated at page 945, but in this instance the action was held not to relate to the performance of a continuing duty of the office of U.S. Attorney, instead to an alleged personal duty of a U.S. Attorney whose term of office had expired. Held, further, that there was no need to prosecute the petition to enjoin use in a criminal proceeding of documents alleged to have been taken from petitioner by an illegal search and seizure, since petitioner could move in the trial court to suppress this evidence.

II.

The requirements of Rule 25(d) are met by plaintiffs' allegations (a) that there is substantial need for continuing and maintaining this action against the present Director of the Department of Agriculture of California, in that a justiciable claim under sections 1331 and 1337 of the Judicial Code is pleaded in plaintiffs' complaint, and (b) that the [fol. 497] present Director continues the action of his predecessor in enforcing a law averred to be in violation of the Constitution of the United States.

Allen v. Regents of University System of Georgia, 304 U.S. 439, 445, 58 S. Ct. 980, 983.

Porter v. American Distilling Co., D.C. N.Y., 71 F.S. 483, 487-489.

By decision of the Supreme Court of the United States, it is now the law of this case that plaintiffs' complaint seeks to enjoin further enforcement against them of section 792 of the Agricultural Code of California on substantial grounds of federal unconstitutionality, also because it is in conflict with an Act of Congress regulating interstate commerce. (80 S. Ct. 568.)

Respectfully submitted,

Isaac E. Ferguson, Attorney for plaintiffs.

[fol. 498]

IN UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

NORTHERN DIVISION

No. 7648 Civil Action

FLORIDA LIME AND AVOCADO GROWERS, INC., a Florida corporation, and SOUTH FLORIDA GROWERS ASSOCIATION, INC., a Florida corporation, plaintiffs,

vs.

W. C. JACOBSEN, Director of the Department of Agriculture of the State of California, GOODWIN J. KNIGHT, Governor of the State of California, and EDMUND G. BROWN, Attorney General of the State of California, defendants.

MOTION TO RECONSIDER AND GRANT PLAINTIFFS' MOTION OF
FEBRUARY 2, 1959 TO AMEND COMPLAINT—Filed April
29, 1960

The plaintiffs, Florida Lime and Avocado Growers, Inc., and South Florida Growers Association, Inc., by their undersigned attorney, move the court to reconsider and grant *nunc pro tunc* their motion filed February 2, 1959 to amend their complaint (a) by changing the description of the defendant Edmund G. Brown from Attorney General to Governor of the State of California, (b) by naming the present Attorney General, Stanley Mosk, as a party defendant, and (c) by striking out the name of Goodwin J. Knight, former governor, as a party defendant.

In support of this motion, the plaintiffs submit the following suggestions:

I.

All allegations of the complaint regarding acts of the [fol. 499] three defendants therein named, in their respective official capacities. No objection was made to the joinder as defendants of the persons then in office as governor and

as attorney general of California. A joint answer to the complaint was made by the three defendants, also joint motions to dismiss the complaint, granted January 13, 1959.

After participation by the governor and attorney general in all proceedings in the case without objection to their joinder as defendants, it appears incongruous to say that they were not proper parties.

II.

Because of the special provision of section 2284 (2) of the Judicial Code, this court would lack jurisdiction to hear the case without giving notice of such hearing to the persons then holding office as governor and attorney general of California, a requirement that would be meaningless if it did not give to these state officers the right to participate in the case in opposition to the complaint. (*Crescent Mfg. Co. v. Wilson*, C. A. 2d, 242 F. 462.) The right of these state officers to participate in the case, with full opportunity to oppose the complaint, is recognized and made effective by joining them as parties defendant.

III.

Although the term of office of Goodwin J. Knight as governor and of Edmund G. Brown as attorney general ended January 5, 1959, judgment was entered by the court on January 13, 1959 against plaintiffs and in favor of the three defendants named in the complaint, designated in their respective official capacities, dismissing the complaint and action and awarding costs to said defendants, and it must be presumed that said judgment was in fact procured by the attorneys for the defendants for the benefit of the officers then serving as governor, attorney general and [fol. 500] rector of the Department of Agriculture of the State of California.

This alone satisfied the requirements of Rule 25(d) for substitution of parties defendant, as prayed for in plaintiffs' motion. (*Chin Chuck Ming v. Dulles*, C.A. 9, 225 F. 2d 849, 852.)

III.

After entry of said judgment on January 13, 1959, and after plaintiffs filed their notice of appeal and designation of record on February 12, 1959, *the three defendants jointly* filed a cross-designation of record on appeal, notwithstanding the objections theretofore filed by Edmund G. Brown, Governor, and Stanley Mosk, Attorney General, to plaintiffs' motion to amend their complaint and the order of the court filed February 20, 1959 denying plaintiffs' motion. Thereafter *the three defendants jointly*, designated in their official capacities, filed in the Supreme Court of the United States their appearance and motion to dismiss the appeal for lack of jurisdiction thereof, or to affirm the judgment of this court summarily, but the Supreme Court granted plenary hearing of the appeal and decided, first, that it had jurisdiction of the appeal, and second, that the judgment of this court was erroneous and should be reversed.

In an endeavor to sustain the judgment of this court on the appeal, as in the entry of the judgment, it is submitted, the attorneys for the defendants (the Attorney General and Deputy Attorney General of California) must necessarily have acted as the authorized representatives of the persons then holding office, respectively, as governor, attorney general and director of the Department of Agriculture of California. A contrary conclusion would be rank fiction.

IV.

Considerations given effect in the court's order denying plaintiffs' motion of February 2, 1959, it is submitted, must [fol. 501] now be disregarded: (a) that the granting of the motion might be construed as inconsistent with the judgment of dismissal and so might breathe new life into the matter; (b) that allowance of the motion was not needed to enable plaintiffs to prosecute their appeal, or if needed the motion could be passed upon by the appellate court.

The case of *Dannenberg v. Cohen*, 213 F. 2d 944, cited in the court's memorandum, is not applicable to the case at bar in its present phase. The opinion in that case did not gainsay the general rule that an action relating to the performance of a continuing duty pertaining to a public office

does not abate on the retirement of the named officer and that the court has power to continue the cause against his successor in office. The court held, however, that the petition filed against the former U.S. Attorney to enjoin him from using in a criminal proceeding documents alleged to have been taken from petition by an illegal search and seizure was in the nature of a proceeding for a mandatory injunction to compel performance by the respondent of a personal duty no longer within his power to perform; and further, that the petition was not needed to obtain the relief sought, since the petitioner could file in the district court a motion to suppress the alleged illegal evidentiary matter. The present case deals with the continued exercise of power by the governor and attorney general, as an incident of official duty, to administer and enforce provisions of the state's Agricultural Code complained of by plaintiffs as unconstitutional.

Wherefore the plaintiffs pray that in order to make the pleadings conform with the actual proceedings in the case, and in order to comply effectively with the command of section 2284(2) of the Judicial Code, the order herein entered February 20, 1959 should be vacated and that in lieu [fol. 502] thereof an order should be entered *nunc pro tunc* granting plaintiffs' motion.

Respectfully submitted,

Isaac E. Ferguson, Attorney for plaintiffs.

[fol. 503] Certificate of service (omitted in printing).

[fol. 504] [File endorsement omitted]

IN UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
NORTHERN DIVISION
No. 7648 Civil Action

[Title omitted]

SPECIAL APPEARANCE IN OPPOSITION TO PLAINTIFFS' MOTION
TO AMEND AND SUPPLEMENT COMPLAINT—Filed May 5, 1960

Come now the petitioners, Edmund G. Brown, Governor, State of California, and Stanley Mosk, Attorney General, State of California, and appear in the above-entitled action, *specially only*, and for the sole purpose of opposing plaintiffs' motion for leave to amend and supplement their complaint (1) by describing defendant Edmund G. Brown as Governor instead of Attorney General, State of California, and (2) by naming Stanley Mosk, Attorney General, State of California, as a party defendant, in substitution of Edmund G. Brown, former Attorney General, State of California. Plaintiffs' motion leaves unchanged the allegations in the body of their complaint. Petitioners oppose and ob-[fol. 505] ject to plaintiffs' said motion on the following grounds:

Plaintiffs filed an identical motion on February 2, 1959, in this action which was denied by the Court by order filed February 20, 1959. In the course of its memorandum opinion, the Court found that "in their motion, plaintiffs have failed to show either that the Governor and the Attorney General are proper parties or that there is a substantial need for the substitution of the names of the new holders of those state officers", citing Federal Rules of Civil Procedure, Rule 25 (d) and *Danenberg v. Cohen*, 213 F. 2d 944. The Court also noted that the authority to review the Court's order existed at the appellate level in the appeal then pending to the United States Supreme Court. Plaintiffs made no application to substitute parties defendant to the Supreme Court, nor did they appeal from the appeal.

able order of February 20, 1959. See *Sullivan v. Associated Bill Posters and Distributors*, 6 F. 2d 1000, which held that an order denying the right to revive an action for damages against executors of a deceased defendant is a "final decision" and reviewable by appeal. It follows that the Court's order of February 20, 1959, is a final order and is res judicata of the issues determined therein.

In any event, plaintiffs' motion is not well taken on the merits. Their real grievance is against W. C. Jacobsen, former Director of Agriculture, State of California, who five years ago in 1955 had allegedly threatened to enforce the 8% oil maturity requirements of section 792, Agricultural Code, to plaintiffs who were then shipping avocados into California (plaintiffs' complaint, paragraph XXVI). Plaintiffs' complaint does not show how they are aggrieved by any action of the Petitioners, Edmund G. Brown or Stanley Mosk. Controlling precedent in this situation is *Ex Parte Poresky*, 290 U. S. 30. In this case, the plaintiff had filed suit against the Governor, Attorney General, and [fol. 506] Registrar of Motor Vehicles, of the State of Massachusetts, to enjoin their enforcement of the Massachusetts compulsory automobile liability insurance statute. The Supreme Court of the United States affirmed the dismissal of the complaint as to the Governor and Attorney General upon the ground that they were improperly joined as parties.

Wherefore, petitioners pray that plaintiffs' motion be denied.

Respectfully submitted,

John Fourt, Deputy Attorney General.

[fol. 507] Affidavit of Service by Mail (omitted in printing).

[fol. 508] [File endorsement omitted]

IN UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

NORTHERN DIVISION

No. 7648 Civil Action

[Title omitted]

SPECIAL APPEARANCE IN OPPOSITION TO PLAINTIFFS' MOTION
TO AMEND AND SUPPLEMENT COMPLAINT—Filed May 5, 196

Comes now the petitioner William E. Warne, Director of Agriculture, State of California, and appears in the above-entitled action, *specially only*, and for the sole purpose of opposing plaintiffs' motion for leave to amend and supplement their complaint by substituting William E. Warne, as party defendant in place of his predecessor in office, W. C. Jacobsen.

It is fundamental that a suit in the Federal Courts to enjoin a public officer from enforcing a statute is personal and, in the absence of statutory provision for continuing it against his successor in office, the action abates upon his death or retirement from office (*Pullman Co. v. Croome*, [fol. 509] U. S. 571, 576; *United States v. Boutwell*, 17 Wall. 604). A successor in public office is not privy to his predecessor in respect of the alleged wrongful conduct (*Penoyer v. McConaughy*, 140 U. S. 1, 10; *United States v. Bernardin v. Butterworth*, 169 U. S. 600, 603-604). These principles are applicable to suits against State officers, because suits against such persons, *in their capacities as State officers*, constitute suits against a State in contravention of the 11th amendment (*Ex Parte Ayers*, 123 U. S. 465; *Minnesota v. Hitchcock*, 185 U. S. 373; *Fitz v. McGhee*, 17 U. S. 516; *In re State of New York*, 256 U. S. 490). The United States Supreme Court in its opinion 361 U. S. 244 L. ed. 2d 568, in the above-entitled case held that the present complaint did allege facts showing that the defendant Jacobsen had committed a personal wrong against the plaintiffs, saying:

"As earlier stated, the complaint alleges that, since the issuance of the Secretary's [of Agriculture] Florida Avocado Order #69 in 1954, appellants have made more than a score of shipments in interstate commerce of Florida avocados to and for sale in California, and appellee's or their agents have in effect consistently condemned those avocados for failure to contain 8% or more of oil by weight, thus requiring appellants . . . to reship the avocados and sell them in other States.
...."

Plaintiffs base their motion for substitution upon rule 25 (d) Federal Rules of Civil Procedure which provides, in part:

"Substitution pursuant to this rule may be made when it is shown by supplemental pleading that the successor of an officer adopts or continues or threatens to adopt or continue the action of his predecessor in enforcing a law averred to be in violation of the Constitution of [fol. 510] the United States."

Plaintiffs have completely failed to make such a showing, except for the statement by counsel in their motion to substitute:

" . . . plaintiffs allege that such statute will continue to be enforced against them by the present director as long as it remains in force unless deterred by the judicial declaration or writ of injunction as prayed for in plaintiffs' complaint" (Plaintiffs' motion, p. 2).

This statement merely follows the language of rule 25 (d). No facts are shown by affidavit, deposition or otherwise, from which the Court could find that petitioner has adopted or threatens to adopt, the attitude of his predecessor since taking office on January 4, 1960. Such a finding cannot be inferred from petitioner's having taken the oath of office (*Ex parte La Prade*, 289 U. S. 444, 458). In actual fact, it would have been physically impossible for petitioner to have taken action of any kind against the plaintiffs since he took the oath of office on January 4, 1960, because there have been no commercial shipments of Florida avocados

received in California from Florida from March 1, 1958, to the present time (Affidavit of S. R. Whipple, attached hereto as Exhibit A). Similarly, there would have been no occasion for him to threaten, or consider such action. Petitioner's affidavit expressly denies having taken action, or to have threatened action, against plaintiffs since taking office as Director of Agriculture (Affidavit of William E. Warne, attached hereto as Exhibit B).

There having been no showing made that petitioner has taken action against plaintiffs, nor that he has threatened to take any action, petitioner prays that plaintiffs' motion be denied.

[fol. 511] Respectfully submitted,

Stanley Mosk, Attorney General of the State of California. John Fourt, Deputy Attorney General.
By: John Fourt.

[fol. 512]

EXHIBIT "A" TO SPECIAL APPEARANCE

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE NORTHERN DISTRICT OF CALIFORNIA

NORTHERN DIVISION

No. 7648 Civil Action

FLORIDA LIME AND AVOCADO GROWERS, INC., a Florida corporation, and SOUTH FLORIDA GROWERS ASSOCIATION, INC., a Florida corporation,

Plaintiffs,

vs.

W. C. JACOBSEN, Director of the Department of Agriculture
of the State of California,

Defendant.

AFFIDAVIT OF S. R. WHIPPLE

STATE OF CALIFORNIA)

) ss.

COUNTY OF SACRAMENTO)

Comes now S. R. WHIPPLE and deposes and says:

That he is Assistant Chief, Bureau of Fruit and Vegetable Standardization, California Department of Agriculture; that he has held said position since August, 1945; that in such position he is charged with the duty of supervising the inspection work performed by inspectors of the said Bureau of Fruit and Vegetable Standardization and [fol. 513] inspectors of the Central California County Agricultural Commissioners in the inspection of avocados, both domestic and imported found in California wholesale terminal markets. That, in such capacity, he has access to and is familiar with the records pertaining to avocados marketed in California maintained by the Director of Agriculture, and more particularly maintained by the Bu-

reas of Fruit and Vegetable Standardization, Market News, and Agricultural Statistics in the California Department of Agriculture.

That the official records maintained by the said Director of Agriculture, and the said Bureaus of Fruit and Vegetable Standardization, Market News and Agricultural Statistics show that no commercial shipments of avocados grown in Florida arrived in California for purposes of sale or otherwise during the period of time March 1, 1958, to April 29, 1960, inclusive; that affiant has confirmed the reliability of these records by the receipt of reports from the County Agricultural Commissioners for the Counties of Los Angeles, Alameda and San Francisco, State of California, the principal receiving areas in California for avocados grown in Florida; that the records in the offices of the County Agricultural Commissioners for the said Counties of Los Angeles, Alameda, and San Francisco, disclose that no Florida avocados were inspected nor offered for inspection in their respective counties during the period of time March 1, 1958, to April 29, 1960.

/s/ S. R. WHIPPLE
S. R. Whipple

Subscribed and sworn to
before me this 2nd day
of May, 1960.

/s/ ANNE MARIE WISE
Notary Public in and for the
County of Sacramento,
State of California
My Commission Expires February 25, 1964

[SEAL]

[fol. 514]

EXHIBIT "B" TO SPECIAL APPEARANCE

"IN UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
NORTHERN DIVISION
No. 7648 Civil Action

FLORIDA LIME AND AVOCADO GROWERS, INC., a Florida corporation, and SOUTH FLORIDA GROWERS ASSOCIATION, INC., a Florida corporation,

Plaintiffs,

vs.

W. C. JACOBSEN, Director of the Department of Agriculture,
of the State of California,

Defendant.

AFFIDAVIT OF WILLIAM E. WARNE.

STATE OF CALIFORNIA)
)
) ss.
COUNTY OF SACRAMENTO)

Comes now WILLIAM E. WARNE and deposes and says:

That since January 4, 1960, he has been the duly appointed, acting and qualified Director of Agriculture, State of California; denies that he has taken action, legal or otherwise, against Florida Lime and Avocado Growers, Inc., a corporation, or against South Florida Growers Association, Inc., a corporation, since January 4, 1960; denies that he has made threats of action of any nature against said corporations since January 4, 1960.

/s/ WILLIAM E. WARNE
William E. Warne

(Seal)

Subscribed and sworn to before me
this 4th day of May, 1960.

/s/ ANNE MARIE WISE
Notary Public in and for the County
of Sacramento, State of California
My Commission Expires February 25, 1964

[fol. 515] Affidavit of Service by Mail (omitted in printing).

[fol. 522] [File endorsement omitted]

IN UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

NORTHERN DIVISION

No. 7648 Civil Action

[Title omitted]

ORDER GRANTING LEAVE TO PLAINTIFFS TO AMEND AND SUPPLEMENT COMPLAINT—Dated June 6, 1960 and filed June 13, 1960

On motion of the plaintiffs for leave to amend and supplement their complaint by substituting William E. Warne, present Director of the Department of Agriculture of the State of California, as party defendant in place of W. C. Jacobsen, his predecessor in said office, notice of said motion having been given to the attorneys for the defendants and to said William E. Warne, the court finds that there is substantial need for continuing this action against William E. Warne, as Director of the Department of Agriculture of the State of California, in substitution for his predecessor in said office, in order to obtain a final adjudication of the questions involved.

It is ordered, accordingly, that plaintiffs may amend and supplement their complaint by substituting William E. Warne, Director of the Department of Agriculture of the State of California, as party defendant in place of his

predecessor in said office, W. C. Jacobsen, such substitution to be without prejudice to the proceedings already had in this action, and all pleadings and motions hereto [fol. 523] fore filed herein on behalf of the defendant W. C. Jacobsen, former Director of the Department of Agriculture of the State of California, shall be regarded and given effect as if made by William E. Warne, Director of the Department of Agriculture of the State of California.

Dated: June 6th, 1960.

Sherrill Halbert, United States District Judge.

[fol. 524] [File endorsement omitted]

IN UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

NORTHERN DIVISION

No. 7648 Civil Action

[Title omitted]

ORDER GRANTING LEAVE TO PLAINTIFFS TO AMEND AND
SUPPLEMENT COMPLAINT—Filed June 13, 1960

On reconsideration of plaintiffs' motion filed February 2, 1949 for leave to amend and supplement their complaint, notice of said motion having been given to the attorneys for the defendants, also to Edmund G. Brown, present governor of the State of California, and to Stanley Mosk, present attorney general of the State of California, the court finds that there is substantial need for continuing this action against Edmund G. Brown, in his capacity as governor in lieu of his former capacity as attorney general, also for adding Stanley Mosk, present attorney general, as a party defendant, in order to obtain a final adjudication of the questions involved.

It is ordered, accordingly, that plaintiffs may amend and supplement their complaint: (1) by designating the defendant Edmund G. Brown as governor in lieu of attorney general; (2) by adding as a party defendant the present

attorney general, Stanley Mosk; (3) by striking out the name of Goodwin J. Knight, former governor, as a party defendant.

[fol. 525] Such substitution of parties shall be made without prejudice to the proceedings already had in this action and all pleadings and motions heretofore filed by the defendants shall be regarded and given effect as if made by Edmund G. Brown, Governor of the State of California, and Stanley Mosk, Attorney General of the State of California, together with W. C. Jacobsen, former Director of the Department of Agriculture of the State of California.

Dated June 6, 1960.

Sherrill Halbert, United States District Judge.

[fol. 528] [File endorsement omitted]

IN UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
NORTHERN DIVISION
No. 7648 Civil Action

FLORIDA LIME AND AVOCADO GROWERS, INC., a Florida corporation, and SOUTH FLORIDA GROWERS ASSOCIATION, INC., a Florida corporation, plaintiffs,

vs.

WILLIAM E. WARNE, Director of the Department of Agriculture of the State of California, EDMUND G. BROWN, Governor of the State of California, and STANLEY MOSK, Attorney General of the State of California, defendants.

ANSWER OF WILLIAM E. WARNE—Filed June 14, 1960

Comes now William E. Warne, Director of Agriculture of the State of California, and with leave of court files his answer to plaintiffs' complaint as amended, and for cause of defense alleges as follows:

First Defense

That this answering defendant admits the allegations contained^d in paragraphs II, V, VIII, X, XI, XVII, XVIII, XIX, XX, and XXI of plaintiffs' complaint; that this answering defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations [fol. 529] contained in paragraphs I, VI, VII, IX, XII, XIII, XIV, XV, XXII, XXIV(a), XXV and XXVII of plaintiffs' complaint and on said ground denies the truth of each and every allegation contained in said paragraphs; that this answering defendant denies the truth of each and every allegation contained in paragraphs III, IV, XVI, XXIII, XXIV(b), XXVI, XXVIII, XXIX, XXX, XXXI and XXXII of plaintiffs' said complaint.

Second Defense

That plaintiffs' suit abated on January 4, 1960, the date when former defendant W. C. Jacobsen vacated the office of Director of Agriculture, State of California; that the court prejudicially erred and acted in excess of its jurisdiction in substituting this answering defendant in the place of the said W. C. Jacobsen.

Third Defense

That this court lacks jurisdiction for failure of the complaint to allege facts showing the existence of a case or controversy within Constitution, Article III.

Fourth Defense

That this court lacks jurisdiction over the subject matter set forth in the complaint.

Fifth Defense

That the complaint fails to state a case within the equity jurisdiction of the court.

Sixth Defense

That the complaint fails to state a claim against defendant upon which relief can be granted.

[fol. 530]

Seventh Defense

That the federal constitutional questions raised by the pleadings may be avoided or simplified or their posture changed if the state enactments in question are first construed by the authoritative decision of a California court that this court should stay further proceedings pending an authoritative determination of doubtful state law in the state courts of California.

Eighth Defense

That the quality and maturity standards purportedly promulgated under Marketing Order No. 69, governing avocados grown in South Florida (19 F.R. 3439, 7 C.F.R. 969), the promulgation, and the methods and procedures used in the administration thereof, are unreasonable and arbitrary and are invalid in that they fail to comply with the requirements of the Marketing Agreement Act, of 1937, as amended (7 U.S.C.A. 601 et seq.).

Ninth Defense

That sections 784 and 792, California Agricultural Code, constitute a legitimate and proper exercise of the state police power and are intended to protect the public health by preventing the marketing of immature, unwholesome avocados which are unfit for human consumption, and to protect the general prosperity and welfare of the important California avocado industry by preventing the marketing of immature, unwholesome avocados, thus maintaining the industry reputation, and consumer and trade market demand, for mature, wholesome, nutritious avocados.

[fol. 531] Wherefore, defendant prays:

1. That the plaintiffs' said complaint be dismissed;
2. That sections 784 and 792, California Agricultural Code, be declared valid and subsisting statutes which are applicable to all avocados prepared, packed, placed, delivered for shipment, delivered for sale, loaded, shipped, transported or sold in bulk or in containers within the State of California;

3. That the defendant be granted such other relief in the premises as the court may deem just and proper;

4. That the court award to defendant his costs.

Stanley Mosk, Attorney General of the State of California, John Fourt, Deputy Attorney General, By John Fourt, Attorneys for Defendant, William E. Warne, Director of Agriculture.

[fol. 532] [File endorsement omitted]

**IN UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

NORTHERN DIVISION

No. 7648 Civil Action

[Title omitted]

**ANSWER OF EDMUND G. BROWN AND STANLEY MOSK—
Filed June 14, 1960**

Come now Edmund G. Brown, Governor of the State of California, and Stanley Mosk, Attorney General of the State of California, and with leave of court file their answer to plaintiffs' complaint as amended, and for cause of defense allege as follows:

First Defense

That these answering defendants admit the allegations contained in paragraphs II, V, VIII, X, XI, XVII, XVIII, XIX, XX and XXI of plaintiffs' complaint; that these answering defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs I, VI, VII, IX, XII, XIII, XIV, XV, XXII, XXIV(a), XXV and XXVII of plaintiffs' complaint and on said ground deny the truth of each and every allegation contained in said paragraphs; that these answering defendants deny the truth of each and every allegation contained in paragraphs III, IV, XVI, XXIII, XXIV(b), XXVI, XXVIII, XXIX XXX, XXXI and XXXII of plaintiffs' said complaint.

Second Defense

That plaintiffs' suit abated on January 4, 1960, the day when former defendant W. C. Jacobsen, the sole defendant vacated the office of Director of Agriculture; that the court prejudicially erred and acted in excess of its jurisdiction in adding as parties these answering defendants.

Third Defense

That this court lacks jurisdiction for failure of the complaint to allege facts showing the existence of a case or controversy within Constitution, Article III.

Fourth Defense

That this court lacks jurisdiction over the subject matter set forth in the complaint.

Fifth Defense

That the complaint fails to state a case within the equity jurisdiction of the court.

[fol. 534]

Sixth Defense

That the complaint fails to state a claim against these answering defendants upon which relief can be granted.

Seventh Defense

That the federal constitutional questions raised by the pleadings may be avoided or simplified or their posture changed if the state enactments in question are first construed by the authoritative decision of a California court; that this court should stay further proceedings pending an authoritative determination of doubtful state law in the state courts of California.

Eighth Defense

That the quality and maturity standards purportedly promulgated under Marketing Order No. 69, governing avocados grown in South Florida (19 F.R. 3439, 7 C.F.R.

969), the promulgation, and the methods and procedures used in the administration thereof, are unreasonable and arbitrary and are invalid in that they fail to comply with the requirements of the Marketing Agreement Act of 1937, as amended (7 U.S.C.A. 601 et seq.).

Ninth Defense

That sections 784 and 792, California Agricultural Code, constitute a legitimate and proper exercise of the state police power and are intended to protect the public health by preventing the marketing of immature, unwholesome avocados which are unfit for human consumption, and to protect the general prosperity and welfare of the important California avocado industry by preventing the marketing [fol. 535] of immature, unwholesome avocados, thus maintaining the industry reputation, and consumer and trade market demand, for mature, wholesome, nutritious avocados.

Wherefore, these answering defendants pray:

1. That the plaintiffs' said complaint be dismissed;
2. That sections 784 and 792, California Agricultural Code, be declared valid and subsisting statutes which are applicable to all avocados prepared, packed, placed, delivered for shipment, delivered for sale, loaded, shipped, transported or sold in bulk or in containers within the State of California;
3. That these answering defendants be granted such other relief in the premises as the court may deem just and proper.
4. That the court award to these answering defendants their costs.

John Fourt, Deputy Attorney General of the State of California, Attorney for Defendants Edmund G. Brown and Stanley Mosk.

[fol. 537]

IN UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

NORTHERN DIVISION

No. 7648 Civil Action

[Title omitted]

DEFENDANTS' WRITTEN INTERROGATORIES (George Norris)
Filed August 19, 1960

1. Please state your name and address.
2. Please state your present occupation or profession.
3. How long have you been a resident of Miami, Florida?
4. Are you personally acquainted with William E. Warne, a defendant in this action?
5. Are you personally acquainted with Stanley Mosk, defendant in this action?
6. Are you personally acquainted with Edmund G. Brown, a defendant in this action?
7. Did you on Wednesday, November 12, 1958, purchase [fol. 538] a flat of Florida avocados?
8. From whom did you purchase this flat of avocados?
9. Did you in purchasing this flat of avocados ask for a particular variety?
10. If so, state the variety you asked for.
11. What size avocados were packed in the flat?
12. Please describe the box in which the avocados were contained.
13. In which city did you purchase this flat of avocados?
14. From whom did you purchase this flat of avocados?
15. At what address did you purchase this flat of avocados?

Instruction to officer taking deposition:

Please have marked for identification as Defendants' Exhibit 3 the cash receipt from South Florida Growers Association, Inc., dated November 12, 1958.

16. Please identify Defendants' Exhibit 3 for identification.
17. Please identify for the record the South Florida Growers Association, Inc.
18. Does Defendants' Exhibit 3 for identification bear any relationship to the flat of avocados purchased by you on November 12, 1958?
19. Please explain this relationship.
20. Was a charge made for these avocados?
21. What was the amount of this charge, and did you pay this charge?
22. Please describe the packing house in Goulds, Florida, where you purchased the flat of avocados.
23. At what time of the day on November 12, 1958, did you purchase these avocados?
24. After the purchase of the flat of avocados at Goulds, Florida, what did you do with the flat of avocados?
[sl. 539] 25. At what time of day on November 12, 1958, did you deliver this flat of avocados to the Air Express company office?
26. Where was this office located?

Instruction to officer taking deposition:

Please mark Air Express receipt 73-94-06 as Defendants' Exhibit 4 for identification.

27. Please identify Defendants' Exhibit 4 for identification.
28. Does Defendants' Exhibit 4 for identification bear any relationship to the flat of avocados purchased by you on November 12, 1958?

29. Does Defendants' Exhibit 4 for identification bear any relationship to Defendants' Exhibit 3 for identification?
30. What was the amount of the express charges on the shipment represented by Defendants' Exhibit 4 for identification?
31. Were these charges paid by you?
32. Who was the designated consignee on this Air Express shipment?
33. What was the address for the consignee specified by you?
34. Please identify who the consignee on the shipment was.
35. After shipping this flat of avocados did you receive notice that this flat of avocados was received by the consignee in Sacramento, California?
36. Did you on Thursday, December 4, 1958, purchase a flat of Florida avocados?
37. From whom did you purchase this flat of avocados?
38. Did you in purchasing this flat of avocados ask for a particular variety?
39. If so, state what variety you asked for.
40. What size avocados were packed in the flat?
41. Please describe the box in which the avocados were contained.
- [fol. 540] 42. In which city did you purchase this flat of avocados?
43. From whom did you purchase this flat of avocados?
44. At what address did you purchase this flat of avocados?

Instruction to officer taking deposition:

Please have marked for identification as Defendants' Exhibit 1 the cash receipt from South Florida Growers Association, Inc., dated December 4, 1958.

45. Please identify Defendants' Exhibit 1 for identification.

46. Please identify for the record the South Florida Growers Association, Inc.

47. Does Defendants' Exhibit 1 for identification bear any relationship to the flat of avocados purchased by you on December 4, 1958?

48. Please explain this relationship.

49. Was a charge made for these avocados?

50. What was the amount of this charge, and did you pay this charge?

51. Please describe the packing house in Goulds, Florida, where you purchased the flat of avocados.

52. At what time of the day on December 4, 1958, did you purchase these avocados?

53. After the purchase of the flat of avocados at Goulds, Florida, what did you do with the flat of avocados?

54. At what time of day on December 4, 1958, did you deliver this flat of avocados to the Air Express company office?

55. Where was this office located?

Instruction to officer taking deposition:

Please mark Air Express receipt 24-06-61 as Defendants' Exhibit 2 for identification.

56. Please identify Defendants' Exhibit 2 for identification.

57. Does Defendants' Exhibit 2 for identification bear [fol. 541] any relationship to the flat of avocados purchased by you on December 4, 1958?

58. Does Defendants' Exhibit 2 for identification bear any relationship to Defendants' Exhibit 1 for identification?

59. What was the amount of the express charges on the shipment represented by Defendants' Exhibit 2 for identification?

60. Were these charges paid by you?

61. Who was the designated consignee on this Air Express shipment?

62. What was the address for the consignee specified by you?

63. Please identify who the consignee on the shipment was.

64. After shipping this flat of avocados did you receive notice that this flat of avocados was received by the consignee in Sacramento, California?

Stanley Mosk, Attorney General of the State of California, John Fourt, Deputy Attorney General, By John Fourt, Attorneys for Defendants.

[fol. 542] Affidavit of Service by Mail (omitted in printing).

[fol. 543] [File endorsement omitted]

IN UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

NORTHERN DIVISION

No. 7648 Civil Action

ANSWERS OF GEORGE NORRIS TO DIRECT INTERROGATORIES
PROPOUNDED ON BEHALF OF DEFENDANTS—
Filed August 10, 1960

Thereupon: George Norris having been first duly sworn, responded to direct interrogatories numbers 1 through 6 as follows:

1. My name is George Norris. My present address is 114 Southwest 57th Court, Miami, Florida.

2. Real estate salesman.

3. Since 1944.

4. No.

5. No.

[fol. 544] 6. No.

7. Yes.

8. South Florida Growers Association, Inc.

9. Yes.

10. Lula Variety.

11. Size 16.

12. Just an ordinary flat wooden box which is used regularly for packing and shipping avocados.

13. Goulds, Florida.

14. South Florida Growers Association, Inc.

15. At the packing house of South Florida Growers Association, Inc., located on U.S. 1 in Goulds, Florida.

(Cash receipt from South Florida Growers Association, Inc., dated November 12, 1958, marked Defendants' Exhibit 3 for identification.)

16. Defendants' Exhibit 3 for identification is a cash receipt of South Florida Growers Association, Inc., covering purchase by me of one flat of avocados, size 16.

17. To the best of my knowledge South Florida Growers Association, Inc., is an organization located in Goulds, Florida, which buys, sells and packs avocados.

18. Yes.

19. Defendants' Exhibit 3 for identification is a memorandum receipt for the purchase of a flat of avocados by me from South Florida Growers Association, Inc., on November 12, 1958.

20. Yes.

[fol. 545] 21. The amount of the charge was \$2.25 for which I paid cash to South Florida Growers Association, Inc.

22. The packing house of South Florida Growers Association, Inc., located at Goulds, Florida, on U.S. 1 is a packing house built and operated by South Florida Growers Association for the handling, shipping and packing of avocados. Rollers move the avocados from one operation to another.

23. 3:45 P.M.

24. I took the flat of avocados over to the Miami International Airport and turned them over to the Air Express Division of Railway Express Agency, consigning same to the Department of Agriculture of California at Sacramento, California.

25. 5:10 P.M.

26. At the Miami International Airport at Northwest 36th Street, Miami, Florida.

(Air Express receipt 73-94-06, dated November 12, 1958, marked Defendants' Exhibit 4 for identification.)

27. Defendants' Exhibit 4 for identification is an Air Express receipt issued to me by the Railway Express Agency covering the Air Express shipment of one flat of

avocados purchased by me from South Florida Growers Association, Inc., on November 12, 1958.

28. Yes.
29. Yes.
30. \$21.60.
- [fol. 546] 31. No.
32. S. Robert Whipple, Department of Agriculture, Sacramento, California.
33. Same as answer given to question 32.
34. S. Robert Whipple, c/o Department of Agriculture, Sacramento, California.
35. I have no recollection of receiving notification of delivery of said shipment.
36. Yes.
37. South Florida Growers Association, Inc.
38. Yes.
39. I asked for a flat of Lula avocados.
40. Size 16.
41. See answer 12 above.
42. Goulds, Florida.
43. South Florida Growers Association, Inc.
44. At the address of South Florida Growers Association, Inc., located on U.S. 1 at Goulds, Florida.
- (Cash receipt D-4897, dated December 4, 1958, marked Defendants' Exhibit 1 for identification.)
45. Defendants' Exhibit 1 for identification is a cash receipt given me by South Florida Growers Association, Inc., dated December 4, 1958, in the amount of \$2.10, covering purchase of one flat of size 16 avocados.
46. See answer 17 above.
47. Yes.

[fol. 547] 48. Defendants' Exhibit 1 for identification is the cash receipt given to me by South Florida Growers Association, Inc., for the purchase by me of one flat of size 1E avocados, on December 4, 1958.

49. Yes.

50. \$2.10. I paid said sum.

51. The packing house of South Florida Growers Association, Inc., herein above referred to is a packing house located in Goulds, Florida, on U. S. 1, which is utilized by said organization for the grading, packing and shipping of avocados.

52. 4:35 P.M.

53. After the purchase of the said flat of avocados at Goulds, Florida, from South Florida Growers Association, Inc., I delivered same to the Air Express Division of the Railway Express Agency at International Airport of Miami on Northwest 36th Street, Miami, Florida.

54. About 7:35 P.M. on December 4, 1958.

55. It is located at the Miami International Airport on Northwest 36th Street in Miami, Florida.

(Air Express receipt 24-06-61, dated December 4, 1958, marked Defendants' Exhibit 2 for identification.)

56. Defendants' Exhibit 2 for identification is a receipt given me by the Air Express Division of the Railway Express Agency on December 4, 1958, covering an Air Express shipment of one flat of avocados.

[fol. 548] 57. Yes.

58. Yes.

59. \$14.82.

60. No.

61. S. Robert Whipple, Sacramento, California.

62. S. Robert Whipple, c/o Department of Agriculture of California, Sacramento, California.

63. S. Robert Whipple.

64. I have no recollection of such notification.

And Further Deponent Saith Not.

George Norris

Sworn to and subscribed before me this 18th day of August, 1960.

Henry E. Colman, Notary Public in and for the State of Florida at Large.

My commission expires: February 5, 1961.

(Notarial Seal)

[fol. 549]

DEFENDANTS' EXHIBIT NO. 1 TO ANSWERS, ETC.

(See opposite) ~~15~~

[fol. 549]

South Florida Growers Association, Inc.

MAROLD E. EDGALL, May.

GOULD, FLORIDA

Phone Homestead 1830
Miami 83-2216

P.O. Box 444

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